

WEITZ & LUXENBERG

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FILED

SEP 23 2002

JUDGE MARINA CORODEMUS

JAMES FOWLER,

Plaintiff,

v.

AMERICAN HOME PRODUCTS
CORPORATION, ET. AL.,

Defendants.

:
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: MIDDLESEX COUNTY
:
: DOCKET NO.: L-10416 - 01 MT
:
: CASE CODE: 264
:
: JURY TRIAL DEMANDED

CONSENT ORDER TO AMEND CAPTION

THIS MATTER having been opened to the Court by Franklin P. Solomon, Esquire, attorney for plaintiff, for an Order allowing plaintiffs to amend the caption of their Short-Form Complaint filed on February 4, 2002 pursuant to paragraph I.D. of Case Management Order #3 Regarding Master & Short Form Complaints entered by the Court on January 3, 2002 and for good cause having been shown,

IT IS on the 23rd day of September, 2002,

ORDERED that if defendants have filed an answer to the Short Form Complaint they shall not be required to file an Amended Answer to this Amended Short Form Complaint as defendants' original answer shall be treated as its Amended Answer, and it is further


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ORDERED that plaintiff, James Fowler, has leave of court to file his Amended Short-
Form Complaint in the form attached hereto.


Marina Corodemus

Honorable Marina Corodemus, J.S.C.

**WE HEREBY CONSENT TO THE
FORM AND ENTRY OF THIS ORDER:**



Franklin R. Solomon, Esquire
WEITZ & LUXENBERG
Attorneys for Plaintiff



Kevin R. Gardner, Esquire
CONNELL FOLEY, LLP
Attorneys for Defendants
Novartis Consumer Health, Inc., and Novartis
Pharmaceuticals Corporation

WEITZ & LUXENBERG

A New York Professional Corporation

51 Haddonfield Road, Suite 160

Cherry Hill, NJ 08002

Tel. (856) 488-9001

Attorneys for Plaintiff(s)

JAMES FOWLER,

Plaintiff,

v.

NOVARTIS CONSUMER HEALTH, INC.

560 Morris Avenue

Summit, NJ 07901-1312

NOVARTIS PHARMACEUTICALS

CORPORATION, f/k/a Sandoz

Pharmaceuticals Corporation

Route 10

East Hanover, NJ 07936

Defendants.

) SUPERIOR COURT OF NEW JERSEY

) LAW DIVISION

) MIDDLESEX COUNTY

)

) DOCKET NO.L- 10416-01

)

) Case Code Number: 264

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) **AMENDED ABBREVIATED SHORT FORM**

) **COMPLAINT FOR PPA LITIGATION**

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) JURY TRIAL DEMANDED

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**AMENDED ABBREVIATED INDIVIDUAL COMPLAINT FOR PPA
LITIGATION AND ADOPTION BY REFERENCE**

1. Plaintiff for her/his claim against the defendants states and alleges as follows and incorporates by reference the relevant portions of the Master Complaint on file entitled In re: New Jersey Superior Court PPA Litigation Case Code No.264, now pending in the Superior Court of New Jersey, Law Division, Middlesex County before the Honorable Marina

Corodemus, J.S.C.

Plaintiff selects and indicates by checking off the appropriate boxes, those products, parties and claims that are specific to her or his case. Where claims require, pursuant to New Jersey law, specific pleading or case specific facts and individual information, plaintiff shall add and include them herein.

2. Plaintiff, James Fowler, is an individual who resides at 3500 W. Manchester, Inglewood in the State of California (hereinafter referred to as the Plaintiff). On or about November 6, 1999, Plaintiff was injured as a result of ingesting PPA containing product(s).

2A. Plaintiff brings this action:

☒ on behalf of himself or herself

_____ as the representative of _____.

_____ as the parent and guardian ad litem of _____, a minor born on _____.

_____ as the Administrator of the Estate of _____ Plaintiff's _____ (hereinafter "Decedent"; see Letters of Administration annexed hereto as Exhibit A), who died on _____.

2B. Plaintiff claims damages as a result of:

☒ Personal Injury to herself, himself, or the person represented

_____ Wrongful Death

_____ Loss of Consortium (per quod)

_____ Loss of Services

☒ Economic Loss

3. Plaintiff/Decedent purchased and/or otherwise obtained and ingested the following:

☐ Robitussin CF
☐ Contac
☐ Alka Seltzer
☒ X Tavist-D
☐ Dimetapp
☐ Coricidin "D"
☐ Accutrim
☐ Dexatrim
☐ Bayer Cough Syrup
☐ Chlor-Trimeton Sinus Tablets
☐ Comtrex
☐ Dristan
☐ Triaminic
☐ Tylenol Cold Medicine
☐ Vicks Day Quil Allergy Relief
☐ Other (Please identify what "product" _____)

4. Plaintiff's spouse, _____ is an adult individual residing at
in the State of _____ (hereinafter referred to as "Spouse") and
claims damages as a result of:

☐ Loss of Consortium, date of marriage _____.
☐ Wrongful Death, date of death _____.

5. The following entity(s) are named as defendants as a consequence of plaintiff
having suffered harm as a result of having ingested products containing PPA which were

manufactured, promoted, distributed and/or sold by such defendant(s), and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

(Check appropriate defendants)

- ☐ American Home Products Corporation
- ☐ Bayer Corporation
- ☐ Bristol-Myers Squibb Co.
- ☐ CCA Industries, Incorporated
- ☐ The Delaco Company, successor by merger to Thompson Medical Company, Inc.
- ☐ Eckerd Corporation
- ☐ Health and Nutrition Systems International Inc.
- ☐ Heritage Consumer Products, LLC
- ☒ Novartis Consumer Health Inc.
- ☒ Novartis Pharmaceuticals Corporation, f/k/a Sandoz Pharmaceuticals Corp.
- ☐ Perrigo Company
- ☐ The Proctor & Gamble Distributing Company
- ☐ Rite Aid of Pennsylvania Inc.
- ☐ Schering-Plough Healthcare Products Inc.
- ☐ SmithKlineBeecham Corp., d/b/a GlaxoSmithKline
- ☐ Teva Pharmaceuticals USA
- ☐ Walgreen Corp.
- ☐ Walgreen Eastern Co, Inc.
- ☐ We Pharmaceuticals, Inc.
- ☐ Whitehall-Robins Healthcare Division of American Home Products Corp.
- ☐ Wyeth-Ayerst Pharmaceuticals, Inc.
- ☐ Wyeth-Ayerst International Inc.

_____ Wyeth-Ayerst Laboratories Division of American Home Products Corp.
_____ Zee Medical Inc.
_____ John Does Drug Store 1-49
_____ Jane Does Manufacturers 50-99
_____ Jack Does Distributors 100-149
_____ Jim Does Marketers 150-199
_____ Joan Does Healthcare Providers 200-249
_____ Jake Does 250-299

6. The following claims asserted in the Master Complaint and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

<u> X </u>	Count I:	Negligence
<u> X </u>	Count II:	Product Liability - Defective Design
<u> X </u>	Count III:	Product Liability - Failure to Warn
<u> X </u>	Count IV:	NJ Consumer Fraud Act (N.J.S.A. 56:8-1 <i>et seq.</i>)
<u> X </u>	Count V:	Breach of Implied Warranty
<u> X </u>	Count VI:	Breach of Express Warranty
<u> X </u>	Count VII:	Fraud and Misrepresentation
<u> X </u>	Count VIII:	Punitive Damages Under Common Law & Products Liability Act (N.J.S.A. 2A:C-1)
_____	Count IX:	Wrongful Death
_____	Count X:	Loss of Consortium
_____		Medical Malpractice

*If you include a claim for medical malpractice, the facts supporting this count must be specifically pled by the plaintiff and the defendants against whom they are alleged must be

identified on a separate sheet of paper attached to the Complaint. In addition, all obligations pursuant to N.J.S.A. 2A:53A-27 or any other statute applicable thereto apply and must be adhered to.

*If Count IV or VII are checked off, the facts supporting this (these) count(s) must be specifically pled by the plaintiff and the defendants against whom they are alleged must be identified on a separate sheet of paper attached to the Complaint.

Plaintiff asserts the following additional theories of recovery against the defendants identified herein: _____

If you have included any additional theories of recovery, to the extent they require specificity in pleadings, the specific facts and allegations supporting these theories must be pleaded by the plaintiff in a manner complying with the requirements of the New Jersey Rules of Court.

DEMAND FOR JURY TRIAL

Demand is hereby made for a trial by jury.

WEITZ & LUXENBERG
A New York Professional Corporation
Attorneys for Plaintiff

Dated: September 12, 2002

By:



Franklin P. Solomon
51 Haddonfield Road, Suite 160
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New York, New York 10038
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Fax. (212) 363-2721

CERTIFICATION PURSUANT TO RULE 4:5-1

Plaintiff upon information and belief is not aware of any pending or contemplated action.

Further, upon information and belief, she/he is not aware of any other party who should be joined in this action.

WEITZ & LUXENBERG
A New York Professional Corporation
Attorneys for Plaintiff

Dated: September 12, 2002

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DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, Ellen Relkin, is hereby designated as trial counsel in this matter.

WEITZ & LUXENBERG

A New York Professional Corporation

Attorneys for Plaintiff

Dated: September 12, 2002

By:



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